IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

Crl.MC.No. 1984 of 2007()

CC.805/2006 of JUDL.MAGISTRATE OF FIRST CLASS-I, CHERTHALA

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PETITIONER: COMPLAINANT

BEENA, W/O. LALJI,
RESIDING AT MARATHARA HOUSE, WARD NO.2,
CHOTTANIKKARA PANCHAYAT, ERNAKULAM DISTRICT.

BY ADV. SRI.K.J.THOMAS STANLEY
SRI.K.K.RAMACHANDRAN PILLAI

RESPONDENTS: STATE & ACCUSED 1 TO 4

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, THROUGH THE SUB INSPECTOR OF POLICE,
AROOR, CHERTHALA TALUK, ALAPPUZHA DISTRICT.

2. LALJI, S/O. RAVI, AGED 33,
RESIDING AT MARATHARA HOUSE, WARD NO.2,
CHOTTANIKKARA PANCHAYAT, ERNAKULAM DISTRICT.

3. RAVI, S/O. VALLON, AGED 55,
RESIDING AT MARATHARA HOUSE, WARD NO.2,
CHOTTANIKKARA PANCHAYAT, ERNAKULAM DISTRICT.

4. VAVA, W/O. RAVI, AGED 53,
RESIDING AT MARATHARA HOUSE, WARD NO.2,
CHOTTANIKKARA PANCHAYAT, ERNAKULAM DISTRICT.

5. SHILJI, W/O. CHANDRAN, AGED 31 YEARS,
RESIDING AT MARATHARA HOUSE, WARD NO.2,
CHOTTANIKKARA PANCHAYAT, ERNAKULAM DISTRICT.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1984 of 2007

Dated this the 21st day of June 2007

O R D E R

The petitioner is the defacto complainant in a prosecution under Section 498A I.P.C. There are four accused persons in that prosecution. Accused 1 is her husband and accused 3,4 and 5 are the in-laws of the defacto complainant. Proceedings were initiated on the basis of a final report submitted by the police after due investigation. The matter is pending before the learned Judicial First Class Magistrate Court-II, Cherthala.

2. The petitioner has now come before this court to report to the court that the petitioner has settled all her outstanding disputes with accused 1 to 4 (i.e. Respondents 2 to 5 herein). She has compounded the offence allegedly committed by accused 1 to 4. Parties are leading a happy and harmonious life. The first accused/her husband is now employed abroad. It is, in these circumstances, submitted that the powers under Section 482 Cr.P.C may be invoked and the proceedings against the accused may be quashed.

3. This petition has been filed by the petitioner herself through counsel. The counsel vouches for the identity and signature of the complainant in the application. The learned counsel for the petitioner further vouches for the settlement of the disputes by the petitioner with accused 1 to 4. The learned Public Prosecutor to whom notice has been given does not also raise any objection against the acceptance of the settlement and composition.

4. I am, in these circumstances, satisfied that the petitioner has willingly and voluntarily settled all her disputes with the accused and compounded the offence allegedly committed by them. If legally permissible, I am satisfied that the composition can be accepted and the proceedings can be brought to premature termination.

5. But the offence under Section 498A I.P.C is not compoundable under Section 320 Cr.P.C. The counsel, in these circumstances, rightly relies on the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may, at times, transcend the interests of mere law and in such circumstances

like the instant one, the stipulations under Section 320 Cr.P.C cannot fetter the width, the sweep and amplitude of the powers under Section 482 Cr.P.C.

6. I am satisfied that the present one is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] must be invoked and applied and proceedings brought to premature termination.

7. In the result, this petition is allowed. C.C.No.805/2006 pending before the Judicial First Class Magistrate Court-II, Cherthala against respondents 2 to 5 (accused 1 to 4) is hereby quashed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007